IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

ANGEL L. SUAREZ-MORENO,	§
TEXAS CONSUMERS, Individually and on	§
behalf of all others	§
	§
Plaintiffs,	§ CIVIL ACTION NO. 5:20-cv-01407
	<u> </u>
V.	§
	§
PAY PAL, Paypal.com, EBAY, Ebay.com,	§
and/or any name used by this corporation,	§
	§
Defendant.	§
·	§

NOTICE OF REMOVAL

Defendants PayPal, Inc., incorrectly named as "Pay Pal" and "Paypal.com" in the Citation and Complaint ("PayPal"), hereby give notice of removal of the following action to the United States District Court for the Western District of Texas, pursuant to 28 U.S.C. §§ 1441 and 1446: *Angel L Suarez-Moreno et al. v. Pay Pal et al.*, Cause No. 2020CI21745, currently pending in the 285th Judicial District Court of Bexar County, Texas (the "State Court Action").

As grounds for removal, PayPal respectfully states the following:

- 1. On November 6, 2020, Plaintiff initiated the State Court Action by filing his Complaint ("Complaint") in the 285th Judicial District Court of Bexar County, Texas. *See generally* Exhibit A.
- 2. PayPal received the Complaint and Citation on November 17, 2020 by Certified U.S. Mail post-marked on November 10, 2020. Pursuant to 28 U.S.C. § 1446(a), PayPal attaches a copy of all process, pleadings, and orders served on PayPal in the State Court Action, which includes the following:

Exhibit A: A copy of the Citation and Complaint.

Exhibit B: A copy of the Statement of Inability to Afford Payment of Court

Costs or an Appeal Bond.

Exhibit C: A copy of PayPal's Original Answer and Affirmative Defense to

Plaintiff's Complaint.

Exhibit D: A copy of the Case History of the State Court Action.

Exhibit E: Consent of Removal from eBay, Inc.

Exhibit F: Answer of eBay, Inc.

Exhibit G: Notice of Filing Notice of Removal

3. This Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b)(1) because it is filed within 30 days following PayPal's receipt of the Complaint.

- 4. Pursuant to 28 U.S.C. § 1446(b)(2)(A), all properly joined and served defendants consent to the removal of the State Court Action. PayPal files this removal on behalf of "Pay Pal" and "paypal.com," and eBay Inc., incorrectly named as "eBay" and "ebay.com" in the Citation and Complaint, has consented.
- 5. This District is proper because it is the district court of the United States for the district and division embracing Bexar County, Texas, the place where the State Court Action is pending. *See* 28 U.S.C. § 1441(a).
- 6. Contemporaneously with the filing of this Notice of Removal, a copy of the Notice of Removal is being provided to the 285th Judicial District Court in Bexar County, Texas and all parties in accordance with 28 U.S.C. § 1446(d).

Diversity Jurisdiction Removable Pursuant to 28 U.S.C. § 1441(b)

7. Removal jurisdiction exists on the basis of diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) because there is complete diversity of citizenship and the minimum amount in controversy is met.

- 8. There is complete diversity of citizenship because no defendant is a citizen of the same state as the plaintiff.
 - (a) At the time this action was commenced, and at all times since, Defendant PayPal was and is a Delaware corporation with its principal place of business in California. For diversity purposes, PayPal is a citizen of Delaware and California. *See* 28 U.S.C. § 1332(c)(1) (a corporation is considered "a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business").
 - (b) At the time this action was commenced, and at all times since, Defendant eBay Inc. was and is a Delaware corporation with its principal place of business in California. For diversity purposes, eBay Inc. is a citizen of Delaware and California. *See* 28 U.S.C. § 1332(c)(1).
 - (c) At the time this action was commenced, and at all times since, Plaintiff Angel L. Suarez-Moreno ("Plaintiff") was and is a citizen of Texas. *See* Ex. A, Compl., at p. 1 (stating Angel L. Suarez resides in Live Oak, San Antonio, Texas). For the purposes of diversity jurisdiction, a person is considered a citizen of the state where the person is domiciled. *Preston v. Tennet Healthsystem Mem. Med. Ctr.*, 485 F.3d 793, 797 (5th Cir. 2007); *see also* 28 U.S.C. § 1332(a)(2). Upon information and belief, Plaintiff was and is domiciled in the same state as his residence.
- 9. The amount in controversy is also met because Plaintiff alleges that he seeks monetary relief that exceeds \$75,000, exclusive of interest and costs. 28 U.S.C. § 1332(a); Ex. A, Compl., at p. 1 (alleging "the amount in controversy exceed[s] 1 Million dollars").

10. To the extent necessary, the Court may exercise supplemental jurisdiction over the

putative class members' claims as they "form part of the same case or controversy." See 28 U.S.C.

§ 1367(a).

Federal Question Jurisdiction Removable Pursuant to 28 U.S.C. § 1441(c)

11. Removal jurisdiction exists on the alternative basis of federal question jurisdiction

pursuant to 28 U.S.C. § 1331 because Plaintiff alleges antitrust violations, which upon information

and belief, arise under the antitrust laws of the United States, and specifically under 15 U.S.C. §

2. Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987) (well-pleaded complaint rule allows

removal to federal court when a federal question appears on the face of the plaintiff's Complaint);

see also Ex. A, Compl., at p. 4 (alleges a "monopoly" and "antitrust practices").

12. To the extent Plaintiff seeks relief for any state law claims, this Court has

supplemental jurisdiction over such claims as they "form part of the same case or controversy."

See 28 U.S.C. § 1367(a).

WHEREFORE, pursuant to 28 U.S.C. §§ 1332, 1367, 1441, and 1446, Defendant PayPal,

Inc. respectfully requests that the State Court Action be removed to this Court.

Respectfully submitted,

By: /s/ Chalon Clark

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ATTORNEY FOR DEFENDANT PAYPAL, INC.

PAYPAL'S NOTICE OF REMOVAL

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CERTIFICATE OF SERVICE

]	I hereby co	ertify that a t	rue and c	orrect cop	y of the	foregoing	was serve	ed on	all kno	own
counsel	of record	via CMRRR	on this tl	he 10th da	y of De	cember, 20	20 as foll	ows:		

/s/ Chalon Clark Chalon Clark